

Leroy Beavers

From: Kerry [REDACTED]
Sent: Thursday, August 03, 2017 10:53 PM
To: Michael Ling
Subject: Re: couple things

Enjoy your time off !!

Sent from my iPhone

On Aug 3, 2017, at 7:06 PM, Michael Ling <30180@lapd.online> wrote:

Perhaps I will stop by before the chaos starts. Call you then.

From: Kerry [REDACTED]
Sent: Thursday, August 3, 2017 6:54 PM
To: Michael Ling
Subject: RE: couple things

Yes...we have a big meeting from 3 – 5 that day, but after will be available. And, that night is our second Old Hollywood Locals Night...which will be centered right here in the mid-BID, so we will be around until about 9 pm.

K

KERRY [REDACTED]
Executive Director

[REDACTED]

From: Michael Ling [<mailto:30180@lapd.online>]
Sent: Thursday, August 3, 2017 6:54 PM
To: Kerry [REDACTED]
Subject: Re: couple things

Kelly, I am off for a few days but back next Tuesday. I could probably stop by your place on Tuesday afternoon if you are avail before the Wed BID safety meeting. Let me know if you are free on that day.

Lieutenant Michael Ling

Hollywood Entertainment District

From: Kerry [REDACTED]
Sent: Thursday, August 3, 2017 6:26 PM
To: Michael Ling
Subject: couple things

Mike – not sure if you are working tomorrow, but when you are in I want to talk to you about:

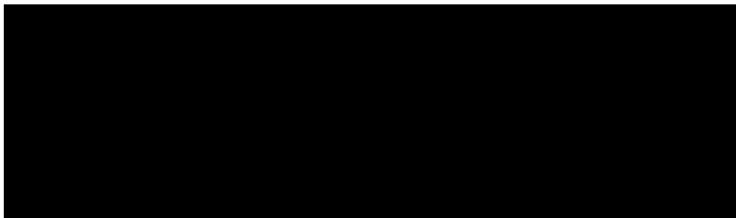
1. Whitley trees
2. Annual all property owners meeting.

Talk soon!

Kerry

KERRY [REDACTED]

Executive Director



Kerry [REDACTED]
Thursday, August 03, 2017 7:42 PM

[REDACTED]

LA Times Editorial re/ stalled street vending ordinance

Friends, thank you for your attendance at this meeting today.

I thought I'd pass along this LA Times Editorial from two days ago – raising the question: “why is it taking the city so long to finish the job they started three years ago, to pass a street vending ordinance?”

<http://www.latimes.com/opinion/editorials/la-ed-street-vending-20170801-story.html>

Last December, the Times editorial board opined that the city should legalize and decriminalize street vending...and after the new president was elected, they moved forward with decriminalization but did not finish the job of formalizing the legal framework. Hence, the confusion – and until there is a permit system put in place, there will not be adequate funds to enforce.

<http://www.latimes.com/opinion/editorials/la-ed-street-vending-20161211-story.html>

<http://www.latimes.com/local/lanow/la-me-ln-street-vending-20170215-story.html>

As was described today, this ordinance is different than what is being proposed with the first amendment zone – but it certainly lends credence to the fact that it **will** be easier to enforce the first amendment zone if the street vending issue is resolved.

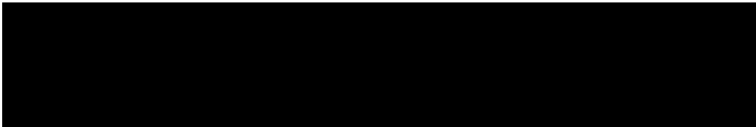
Armed with your frustration today, I am going to reach out to the two councilmembers who have taken the lead on this – Curren Price and Joe Buscaino – and personally invite them to come to Hollywood to see how this delay and confusion is playing out. I know Mitch O'Farrell's staff has heard your frustration, and we have a call tomorrow, and **will** discuss how CD-13 can also put pressure on the city council to finish this job.

Thank you for your participation today.

Kerry

KERRY

Executive Director



Leroy Beavers

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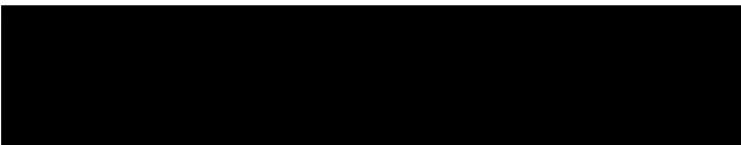
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Talk soon!

Kerry

KERRY

Executive Director



Leroy Beavers

From: Michael Ling
Sent: Thursday, August 03, 2017 7:03 PM
To: Kerry [REDACTED]
Subject: Re: Interesting article to share

From: Kerry [REDACTED] <[REDACTED]@[REDACTED]>
Sent: Thursday, August 3, 2017 11:27 AM

To: [REDACTED]

Subject: Interesting article to share

TO: Security Committee

We'll talk more next week, but I think there is a movement afoot – statewide, actually.

<http://www.dailynews.com/opinion/20170802/in-la-new-urgency-to-deal-with-panhandling>

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From: Kerry [REDACTED]
Sent: Thursday, August 03, 2017 11:28 AM
To: [REDACTED]

Subject: Interesting article to share

TO: Security Committee

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Kerry

KERRY [REDACTED]
Executive Director

[REDACTED]

Leroy Beavers

From: Kerry [REDACTED]
Sent: Wednesday, August 02, 2017 7:01 PM
To: Cory Palka
Cc: [REDACTED]
Subject: Re: Proposed ordinance regulating first amendment passes in Orange - Highland tourist zone

Thank you. See you manana!
Kerry

Sent from my iPhone

On Aug 2, 2017, at 5:52 PM, Cory Palka <25060@lapd.online> wrote:

Hi Kerry
I will be there but have a 3PM meeting back at Station. Jon Pinto will be there as well as Chief Kato. Harry Eddo will not make it I have been told. Sgt II Neil Wank will also be in attendance.
Cory

From: Kerry [REDACTED]
Sent: Wednesday, August 02, 2017 3:24 PM
To: [REDACTED]

Subject: RE: Proposed ordinance regulating first amendment passes in Orange - Highland tourist zone

Friends, just a reminder about tomorrow's meeting at 2 p.m. at the Loew's Hotel, Trousdale Room.

Using Outlook tracking, I have heard from most of you, except for
Katie Ullman
Dough Deluca
Alywn Kushner
Captain Palka
Cindy Chong

If you are planning to be there, but didn't respond to the calendar invite, please send me a private email.

Kerry

KERRY [REDACTED]
Executive Director

-----Original Appointment-----

From: Kerry [REDACTED]

Sent: Wednesday, July 19, 2017 5:10 PM

To: Kerry [REDACTED]

Subject: Proposed ordinance regulating first amendment passes in Orange - Highland tourist zone

When: Thursday, August 3, 2017 2:00 PM-4:00 PM (UTC-08:00) Pacific Time (US & Canada).

Where: Loews Hollywood Hotel, Trousdale Estates, 3rd floor

Meeting with representatives from Council District 13 and office of the City Attorney to discuss current regulatory concept to regulate the number of street characters and vendors within the tourism zone from Highland to Orange on Hollywood Blvd.

This concept requires stakeholder input before we can pursue next steps.

Look forward to seeing you there – and appreciate the staff work and research devoted by city staff up to this point!

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Leroy Beavers

From: Kerry [REDACTED]
Sent: Wednesday, August 02, 2017 3:20 PM
To: [REDACTED]

Cc:
Subject: Reminder -- Jt. Security Committee August 9 at 10 a.m.

TO: Security Committee

Since we did not have a complement of committee members for July, I wanted to ensure that everyone is able to set aside time to come to the meeting on Wed. August 9. Please mark your calendar, and if you are unable attend, please let Lorin know. There is much going on in the two BIDs so we want to keep you apprised.

Kerry

KERRY [REDACTED]
Executive Director

[REDACTED]

Leroy Beavers

From: Brian [REDACTED]
Sent: Friday, July 28, 2017 5:24 PM
To: Cory Palka
Cc: [REDACTED]
Subject: RE: Gower underpass

Hi Cory,

THANK YOU!!!

Absolutely amazing how fast things can get done when the order comes from the right place.

When I checked the Gower underpass at around noon today, everything was clean and all of the encampments were gone. This included both the north and southbound offramps from the freeway.

Brian [REDACTED]

From: Darrell [REDACTED]
Sent: Thursday, July 27, 2017 11:27 PM
To: Jonathan Pinto <32592@lapd.online>
Cc: Brian [REDACTED]
Subject: Re: Gower underpass

Hello there is a clean up on Friday at that location..

FRIDAY 7/28

The full CSI cleanups with Watershed Protection Division for this day will be:

- Gower Street underpass of 101 Freeway (between Franklin and Yucca)

The cleanup on Gower Street on Friday 7/28 will begin at **0830 hours**.

From: Cory Palka
Sent: Thursday, July 27, 2017 11:14 PM
To: Jonathan Pinto
Cc: Brian@hollywoodoffices.com; Darrell Davis
Subject: Fwd: Gower underpass

Please have W2 address Jon. Thanks.
Cory

Cory Palka
Commanding Officer
Los Angeles Police Department
Hollywood Division
Follow On Twitter: @LAPD2014

Begin forwarded message:

From: "Brian Folb" <Brian@hollywoodoffices.com>
To: "Kerry Morrison" <Kerry@hollywoodbid.org>
Cc: "Joseph Mariani" <joe@hollywoodbid.org>, "Matthew Severson" <Matthew@hollywoodbid.org>, "Cory Palka" <25060@lapd.online>
Subject: FW: Gower underpass

Hi Kerry,

Gower underpass. This is getting worse by the day!!!

As my assistant Grace notes, the actual situation is much worse than the photos depict. The trash is completely out of control. I've made several reports to Caltrans. There seems to be a lot of finger pointing (City and State), but no definitive action yet.

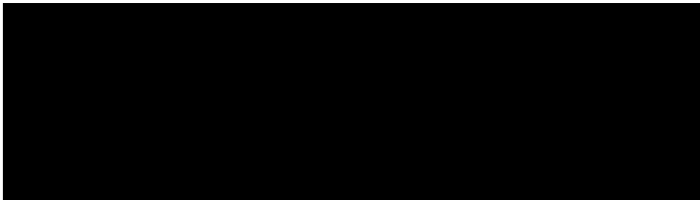
Let's all go stand in front of Mitch O'Farrell's office door!!!

Thanks.

Brian.

Brian 

- - - -


<https://na01.safelinks.protection.outlook.com/?url=www.hollywoodoffices.com&data=01%7C01%7C25060%40lapd.online%7Cafabc296a8b4428c0cac08d4d522bda4%7C642fd61c34dd4fd0af8d443576485883%7C0&sdata=6ReMTNr0aMwtOlpuT3f1wtD2MPQE7tDY5gRGrHrUdAA%3D&reserved=0>

<https://na01.safelinks.protection.outlook.com/?url=www.PCDnews.com&data=01%7C01%7C25060%40lapd.online%7Cafabc296a8b4428c0cac08d4d522bda4%7C642fd61c34dd4fd0af8d443576485883%7C0&sdata=SCVMj80QBS0VPTThYUjdrY3oLw0Vta3lAn54cqcwosgg%3D&reserved=0>

-----Original Message-----

From: Grace [REDACTED]

Sent: Thursday, July 27, 2017 8:50 AM

To: Brian [REDACTED]

Subject: Gower underpass

Poor quality pics. It's a lot worse than photos show













Thank you,
Grace [REDACTED]

Leroy Beavers

From: Brian [REDACTED]
Sent: Thursday, July 27, 2017 12:08 PM
To: Kerry [REDACTED]
Cc: [REDACTED]
Subject: FW: Gower underpass
Attachments: IMG_1584.JPG; ATT00001.txt; IMG_1585.JPG; ATT00002.txt; IMG_1586.JPG; ATT00003.txt; IMG_1587.JPG; ATT00004.txt; IMG_1588.JPG; ATT00005.txt; IMG_1589.JPG; ATT00006.txt

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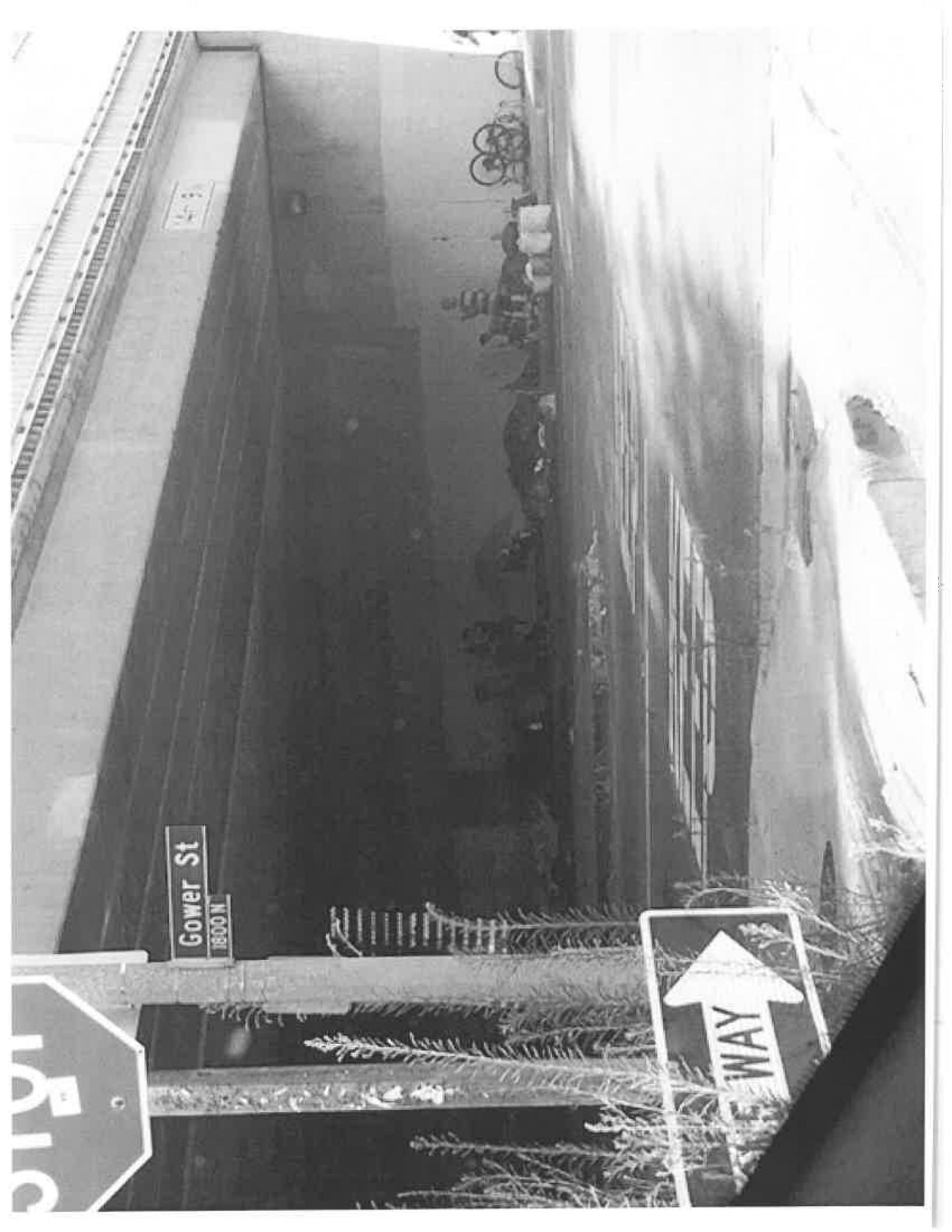
[REDACTED]

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<https://na01.safelinks.protection.outlook.com/?url=www.PCDnews.com&data=01%7C01%7C25060%40lapd.online%7Cafabc296a8b4428c0cac08d4d522bda4%7C642fd61c34dd4fd0af8d443576485883%7C0&sdata=SCVMj80QBS0VPThYUjdrY3oLw0Vta3IA54cqcwosgg%3D&reserved=0>

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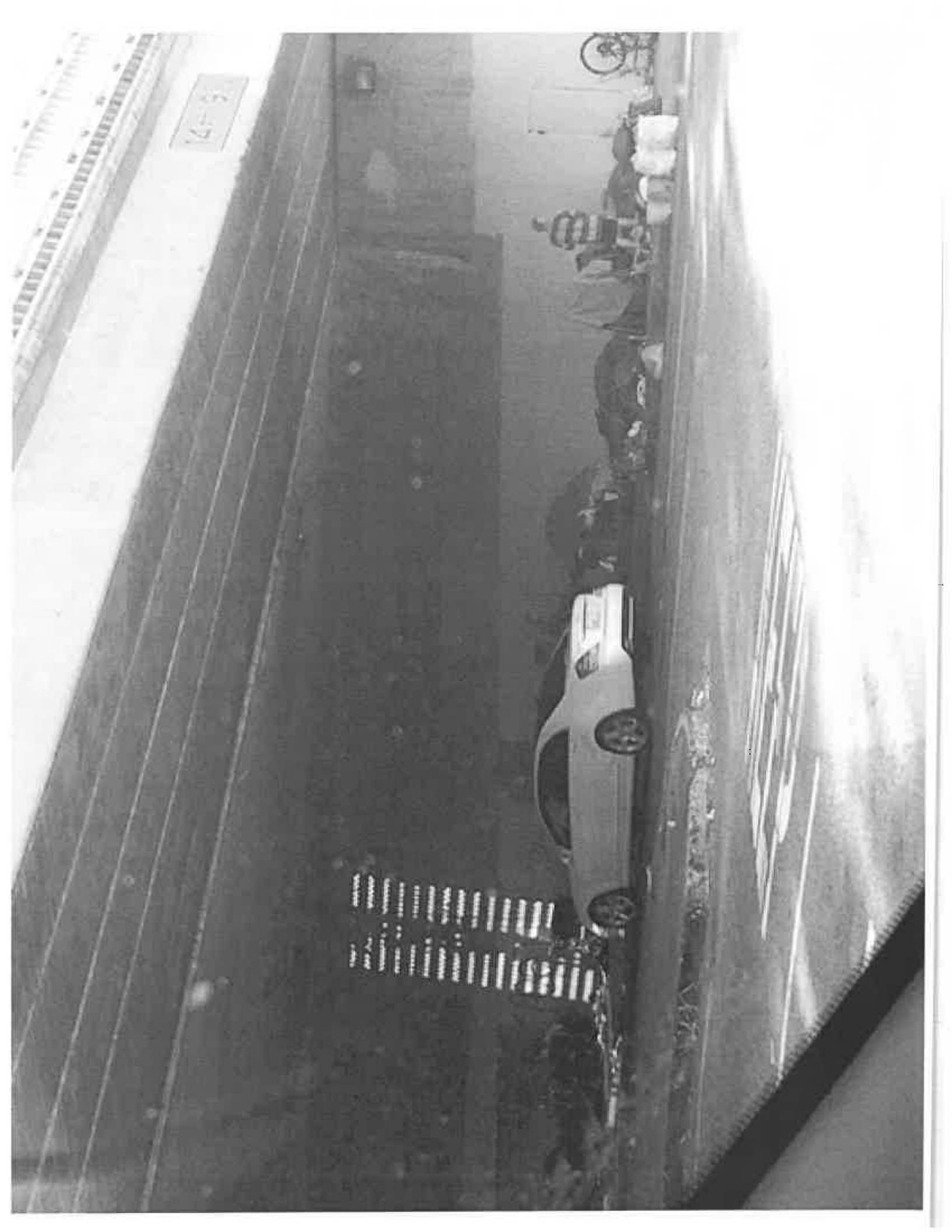


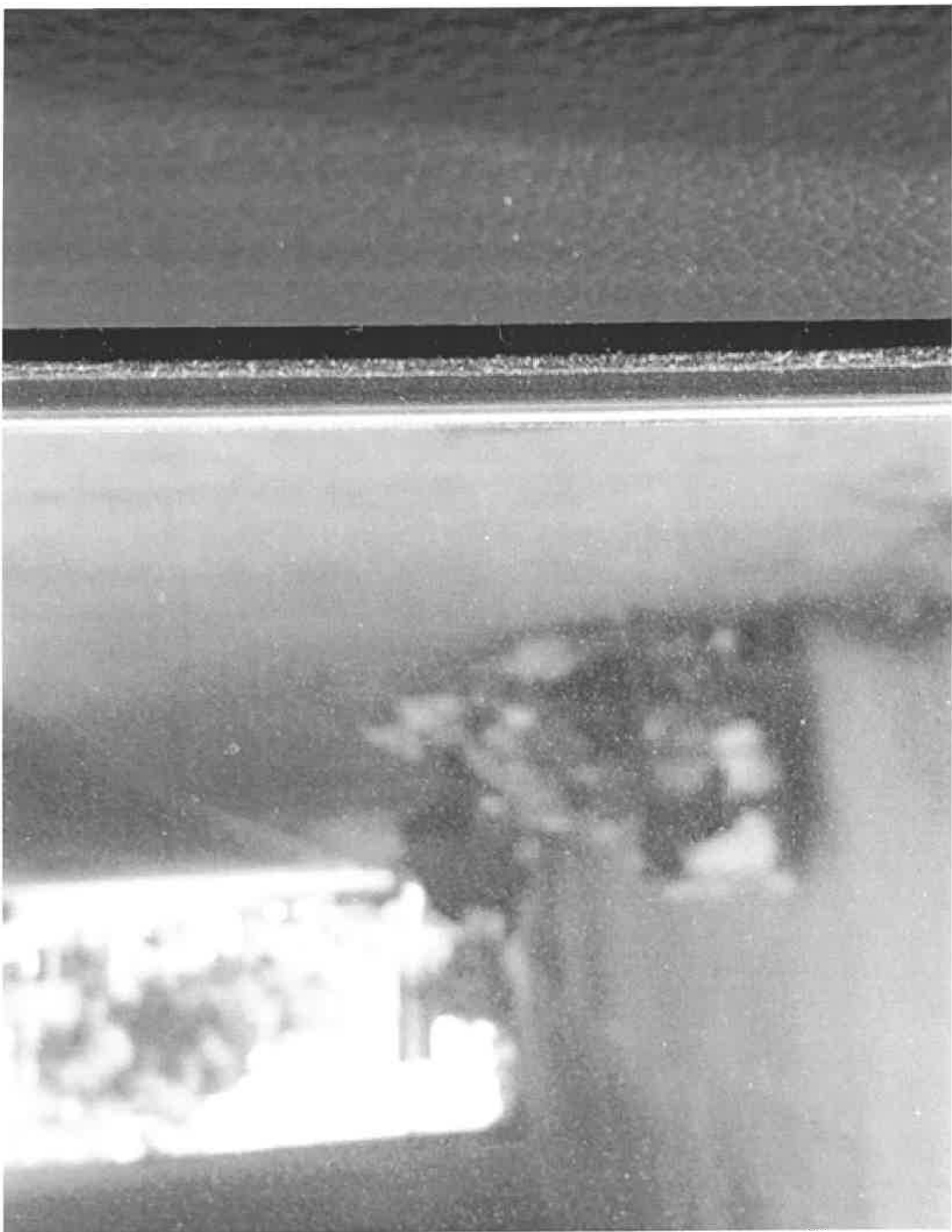
Gower St
1800 N

ONE WAY

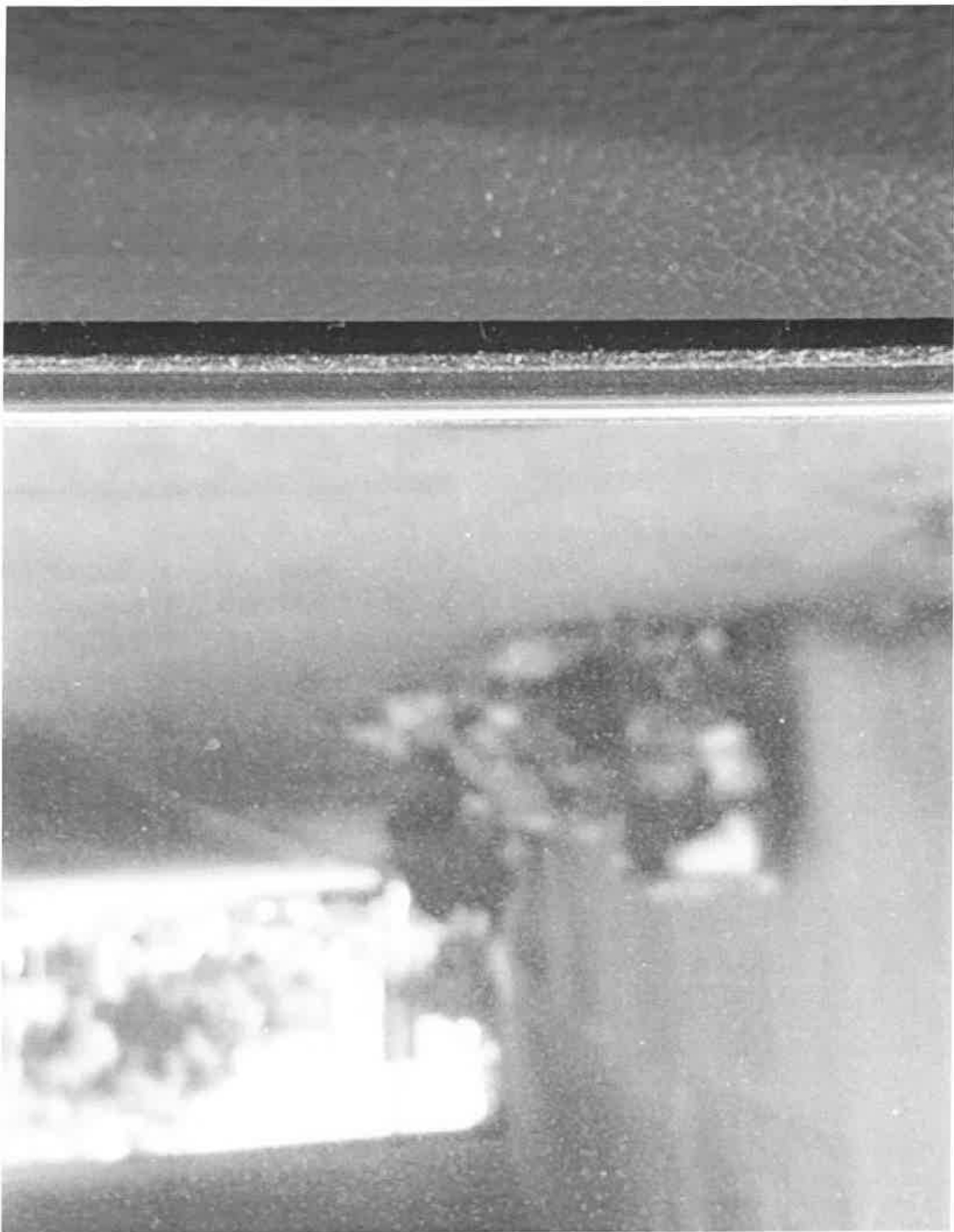
STOP











Leroy Beavers

From: Kerry [REDACTED]
Sent: Wednesday, July 26, 2017 2:08 PM
To: [REDACTED]

Cc:
Subject: There WILL be an August 17 Board Meeting

Greetings HPOA Board,

For those who were not in attendance last week, I wanted to pass along – so you can adjust your schedule – that we ARE planning an August board meeting. Typically, this is a time of hiatus, but with the timetable clicking away on the BID formation process, it seemed prudent to have both boards meet in August to consider the recommendation from the ad-hoc BID Renewal Steering Committee. That committee meets tomorrow; if for some reason they are not ready for August, we will let you know. Otherwise, please mark **4 p.m. Thursday August 17** for a meeting largely devoted to a presentation from the BID Renewal Steering Committee.

Also, we are planning the All Property Owners Meeting for Thursday August 24 at 4 p.m. We have struggled to find an affordable location. At this point, we are in conversations with First Presbyterian Church of Hollywood, which is just outside of our boundary. If there are any other suggestions, please let me know ASAP.

Kerry

KERRY [REDACTED]
Executive Director

[REDACTED]

Leroy Beavers

From: Kerry [REDACTED]
Sent: Tuesday, July 25, 2017 11:41 AM
To: [REDACTED]

Subject: Event downtown tonite

Greetings HPOA Board,

Wanted to bring to your attention a lecture that will be presented by Dr. Adrian Riskin this evening at the Skid Row History Museum and Archive.

I plan to attend. One of the Colantuono lawyers will join me, Joe and Devin, and some other supporters of Hollywood. If any of you would like to join me, happy to have you alongside.

Kerry

https://www.facebook.com/events/379322439149876/?__xt__=33.%7B%22logging_data%22%3A%7B%22profile_id%22%3A379322439149876%2C%22event_type%22%3A%22clicked_view_profile%22%2C%22impression_info%22%3A%22eyJmIjp7InN0eWxlIjoiMzUiLCJwYWdlX2lkIjoiNTAwNTI0NzQ2NzgxOTgyIiwicmVxdWVzdF9pZCI6Ik1UQXdNREF3T0RnNU1USTNOamN5TFRBdU1USTJNVEkzTURBZ01UVXdNVEF3TnpneU5pMHINREI4TkRNNE5qazMifX0%22%2C%22surface%22%3A%22www_pages_home%22%2C%22interacted_story_type%22%3A%22509240112603598%22%2C%22session_id%22%3A%227b7cdf8abecadc6fd409c5b793b60d94%22%7D%7D

KERRY [REDACTED]
Executive Director

[REDACTED]

Leroy Beavers

From: [REDACTED]
Sent:
To:
Cc: [REDACTED]
Subject:
Attachments: 20170721_113144.jpg; Screenshot_20170721-115258.png; Screenshot_20170721-115325.png; Screenshot_20170721-115411.png

Dear Captain Palka,

I am sending this note in the hopes it helps with a stolen vehicle investigation.

On my arrival to Lotería Hollywood today, I heard from our neighbors that a truck of one of the construction workers on the project 2 doors away had been stolen from directly in front of Lotería Hollywood. The police report is attached here.

Please know we searched our surveillance video and we have images at 7.24am of a man approaching the vehicle and walking off the sidewalk. A couple of seconds later, the truck drives away. Our cameras don't see him entering the truck but, perhaps this can be useful to your detectives. Feel free to put them in touch with me so we can make the video available to them should it be helpful.

All the best,

Jimmy

2017-07-21 07:23:56



Playback [1X]CH[15]
Camera15

OSD

2017-07-21 07:23:59



Playback [1X]CH[15]
Camera15

OSD

2017-07-21 07:24:41



Playback [1X]CH[15]
Camera15

OSD

Leroy Beavers

From: Kerry [REDACTED]
Sent: Thursday, July 20, 2017 12:00 PM
To: [REDACTED]

Cc:
Subject: location for All Property Owners Meeting 8-24-17

Greetings HPOA board,

Looking forward to seeing nine of you today, but I'm putting this out to the entire board for ideas.

Send me back a private email if you have a suggestions.

We typically switch between Sunset and Hollywood for the APO, and this year are finding it difficult to find an affordable location. If you have any ideas for a low-cost location that can seat approx. 150 people and will have access to AV, and decent access to parking, please send your idea along ASAP. Typically we pay for the appetizers and AV assistance – and there is a no-host bar.

We will also start reaching back out to Sunset BID, as we may have to find something in that area if nothing surfaces in HED.

The date is Thursday August 24 from 4 p.m. to approx.. 7:30 p.m.

This is an important meeting for us this year, as we will be revealing the proposed parameters of BID Renewal.

Thanks for your help!

Kerry

KERRY [REDACTED]
Executive Director

[REDACTED]

Leroy Beavers

From: Cory Palka
Sent: Wednesday, July 19, 2017 9:26 PM
To: Devin [REDACTED]
Cc: [REDACTED]
Subject: Re: Old Locals - Aug 8

Hi

Thanks for writing. I will look into the 8th of August. The Mounted Unit is deployed from downtown to citywide areas. I will see if they are calendared for Hollywood on the date requested.

Respectfully,

Cory

Cory Palka	Commanding Officer	Los Angeles Police
Department	Hollywood Division	Follow on Twitter: @LAPD2014

On Jul 19, 2017, at 2:26 PM, Devin Strecker <Devin@hollywoodbid.org> wrote:

Hello Captain Palka,

I know Angela Babcock has been in contact with some of the LAPD officers about our upcoming Old Hollywood Locals Night, scheduled for Tuesday, August 8, from 6-8 p.m. here in Old Hollywood. Here's more info:

<http://onlyinhollywood.org/localsnight/>

Yesterday, right after we had a planning meeting for it, Kerry and I saw the LAPD mounted unit on Hollywood Blvd., just outside our office – you may have seen the photo I took of Kerry with them which she tweeted. I was wondering if it would be possible to have the mounted unit make an appearance at Old Hollywood Locals Night? People just love seeing them, taking photos with them, and it really gives a great image for LAPD and Hollywood. I appreciate your consideration. Thanks!

DEVIN [REDACTED]

Director of Communications & Social Media

[REDACTED]

Leroy Beavers

From: 25060@lapd.online
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Cc: [REDACTED]
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Cory Palka	Commanding Officer	Los Angeles Police
Department	Hollywood Division	Follow on Twitter: @LAPD2014

On Jul 19, 2017, at 2:26 PM, Devin Strecker <Devin@hollywoodbid.org> wrote:

Hello Captain Palka,
I know Angela Babcock has been in contact with some of the LAPD officers about our upcoming Old Hollywood Locals Night, scheduled for Tuesday, August 8, from 6-8 p.m. here in Old Hollywood. Here's more info:
<http://onlyinhollywood.org/localsnight/>

Yesterday, right after we had a planning meeting for it, Kerry and I saw the LAPD mounted unit on Hollywood Blvd., just outside our office – you may have seen the photo I took of Kerry with them which she tweeted. I was wondering if it would be possible to have the mounted unit make an appearance at Old Hollywood Locals Night? People just love seeing them, taking photos with them, and it really gives a great image for LAPD and Hollywood. I appreciate your consideration. Thanks!

DEVIN [REDACTED]
Director of Communications & Social Media

[REDACTED]

Leroy Beavers

From: Kerry [REDACTED]
Sent: Wednesday, July 19, 2017 3:45 PM
To: [REDACTED]

Subject: Updates on bill re/ CA Public Records Act
Attachments: CDA - AB 1479 (Bonta) (002).pdf; AB 1479.pdf; AB 1479 - Senate Judiciary Analysis.pdf; CSDA re 1479.pdf

Greetings HPOA Board,
Looking forward to seeing you tomorrow.

There is one action item on tomorrow's agenda, and I wanted to give you an opportunity to read some of the background material before the meeting.

See attached information re/ AB 1479 (Bonta) a bill to allow a court to levy civil penalties against an agency if they do not comply with the CPRA, as defined.

You will see a letter from me and from CDA asking that this bill be opposed, unless amended. There is also a Senate Judiciary Committee analysis and a short analysis from the CA Special Districts Assoc. This bill caught everyone by surprise. It had passed out of the Assembly with only one no vote, and we in the BID community first learned of it a week ago Friday.

More details to follow.

Kerry

KERRY [REDACTED]
Executive Director

[REDACTED]



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Union Square Business
Improvement District

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Downtown Santa Monica
Inc.

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Lake Merritt-Uptown District
Associations

Joe Strodebafer
City of San Diego

Dominic Tartaglia
San Luis Obispo Downtown
Association

July 11, 2017

Assemblymember Rob Bonta

State Capitol, Room 2204

Sacramento, CA 95814

RE: AB 1479 (Bonta) – Public Records: Civil Penalties – OPPOSE UNLESS AMENDED

Dear Assemblymember Bonta:

On behalf of the California Downtown Association (CDA), representing over 70 urban place management organizations across the state, I am writing to express our opposition to Assembly Bill 1479, unless amended. The bill would place additional burdens on private non-profit organizations that adhere to the California Public Records Act ("CPRA"). We appreciate the amendments to the bill on July 11 in the Senate Judiciary Committee, but feel additional amendments are needed to protect non-profit, community-based organizations who remain vulnerable to abuse of the CPRA.

The CPRA already provides legal remedies to requestors who feel there have been obstacles. The responsibility of fulfilling these requests often falls on teams that are stretched to their limits. Our members, of any size, are required by law to respond to all CPRA requests but there must also be recognition of the significant burden these requests have, in particular serial abuse of the CPRA for our smallest members. According to the International Downtown Association's 2017 Staffing and Salary Survey, 21 percent of our members have an organizational budget under \$250,000 with an average staff of less than two.

As an example, in less than 18 months, the Huntington Beach Business Improvement District received more than 50 CPRA serial requests from one individual. The small staff works very hard to respond to the requests, sometimes nearly a dozen at the same time. They continue to find themselves expending significant legal fees to understand and respond to serial – and at times duplicative – requests for records that he alleges were not produced.

Creating a new incentive with a civil penalty provision would create a real economic incentive for those that abuse CPRA to seek not only the penalty, but to also seek attorney's fees and court costs. This provision poses a serious threat to the viability of our non-profit organizations.

Composed of Property Based Improvement Districts, Business Improvement Districts, Community Benefit Districts, and others, the core mission of urban place management organizations is to improve and enhance the environment and economy of urban centers throughout the state. Covering a wide range of services including maintenance, customer service, marketing, economic development, parking management, special events, and other enhanced services or improvements, we play a key role in our local communities to bridge the gap between the public and private sectors. While we receive limited public funding, and work closely with city and county representatives, we do not hold the same land use authority, do not issue permits, nor do we oversee the core public safety services provided by those public agencies. Our role is one of investment, promotion and revitalization within the urban core, and one primarily funded by private sources.

The CDA fully supports transparency within local government and the need to ensure safe, livable communities throughout our state. However, we believe it is critical to clarify that as it is written today, AB 1479 will unfairly impact private non-profit organizations. It was never the intent to consider our organizations as public agencies. According to state statute, "owner's association means a private non-profit entity that is under contract with a city to administer or implement improvements, maintenance, and activities specified in the management district plan." (See Section 36612 of Streets & Highways Code.)

On behalf of the CDA's members throughout the state, we would ask AB 1479 be amended to restrict its application only to public (governmental) agencies. We look forward to continued conversations with you and your staff to help us address our concerns.

Sincerely,

A handwritten signature in dark ink, appearing to read "Karin Flood". The signature is fluid and cursive, with the first name "Karin" and last name "Flood" clearly distinguishable.

Karin Flood, President
California Downtown Association



c/o Hollywood Property Owners Alliance
6562 Hollywood Boulevard
Hollywood, CA 90028
323.463.6767

www.hollywoodbid.org

July 11, 2017

Assemblyman Robert Bonta
1515 Clay Street Ste 2204
Oakland, CA 94612

Assemblyman Richard Bloom
2828 28th Street
Santa Monica, CA 90405

Senator Ben Allen
2512 Artesia Blvd #320
Redondo Beach, CA 90278

Subject: AB 1479 – Oppose Unless Amended

Dear Assemblymember Bonta, Assemblymember Bloom, and State Senator Allen,

The Hollywood Property Owners Alliance, the nonprofit organization which manages the Hollywood Entertainment District Business Improvement District, is seeking your assistance to amend the proposed AB 1479 (Bonta). We ask that this bill be opposed unless amended. This bill imposes additional burdens on private non-profit organizations that are subject to the California Public Records Act ("CPRA"). Despite the intended objective to promote government transparency, there is an unintended consequence. The civil penalty provision creates an incentive for serial public records requestors to seek such penalties and, in the case of the small nonprofit organizations that manage business improvement districts (BIDs), this poses a very real threat to the survival of BIDs in this state.

The proposed legislation seeks to impose the threat of civil penalties ranging from \$1,000 to \$5,000 to a public agency if the court finds, by a preponderance of the evidence, that the agency has failed to respond to a request; improperly withheld a public record; unreasonably delayed providing a record; improperly assessed a fee upon a requestor; or did not act in good faith.

The CPRA already provides legal remedies to requestors who feel any or all of these obstacles have been presented. Our nonprofit is a good case study of the burden resulting from serial public records act abuse; and the financial burden is not sustainable. In the case of Hollywood, which has been subject to the CPRA since 1999, 15 years went by with perhaps just one or two requests from the public. Then, beginning in October 2014, one individual, intent on bringing our organization to its demise, submitted 144 requests over the course of 22 months. His actions (which are celebrated on his website) seems to have stimulated a second requestor who appears to be following in his footsteps.

*Hollywood
Property Owners
Alliance*

Michael Gargano
Vice President
Argent Ventures
LLC

Evan Kaizer
Secretary
The Sieraty
Company

Brian D. Johnson
Treasurer
Loews Hollywood
Hotel

Leslie Blumberg
The Fonda

Joseph D'Amore
Hollywood
Commercial Realty

Darcy Derler-Judd
Robertson
Properties
Group

David Green
Nederlandier
West Coast

Julie Hudman
Saban Community
Clinic

Chad Lewis
Klein Financial

Gabe Medina
Comprehensive
Financial Services

Frank Stephan
Clarett West
Development

Mark Stephenson
Hollywood United
Methodist Church

John Tronson
Whiskey Court
Partners LLC

Monica Yamada
CJM Group

Katie Zandona
Ultima Investments

Tony Zimbardi
AMDA

Kerry Morrison
Executive Director

AB 1479 – Oppose Unless Amended
July 11, 2017

Our nonprofit organization which manages two BIDs has five staff people. At times, there were up to 30 pending requests at one time. The staff worked very hard to comply with the Act, working in good faith to retrieve records and respond to his unending requests. At considerable expense, we hired a specialist attorney to help us navigate the intricacies of the CPRA law. Despite our efforts and conscientious responses, the requestor filed a lawsuit against our nonprofit corporation in December of 2016. We now find ourselves expending significant legal fees to respond to his writ of mandate for records that he alleges were not produced.

Please note that attorney's fees alone in these cases can be substantial and the threat of having to pay a plaintiff his or her attorney's fees on top of our own is a sufficient deterrent to not following the law. Furthermore, our nonprofits have virtually zero recourse if the plaintiff's position is upheld by the court. Adding a "profit incentive" to these lawsuits will cause CPRA litigation to swell and force extortion-type settlements.

We are not the only nonprofit organization who has been subject to the burdens placed by this one individual. At least 18 other nonprofit BID management organizations in the city of Los Angeles have also been barraged by his requests. Some organizations are very small, with either a volunteer to run the BID, or a part-time employee. If this type of abuse is incentivized, this will result in the demise of the BIDs as we know them today.

Why are we concerned for the future of the BIDS? The funds that must be used to pay for legal fees and to defend against litigation are *property owner assessments*. These assessments are intended to be used for services to improve the district, including tree trimming, trash and graffiti removal, security patrols, marketing programs and the like. While everyone agrees that BIDs are of great value to communities, support for the self-imposition of property assessments will disappear if the assessments are supporting defense of CPRA litigation, lawyers and possibly civil penalties.

Finally, BID organizations, from the beginning, were never considered public agencies for CPRA purposes until a lawsuit in 1999. And in acknowledging the unique nature of our organizations, the statute provides this definition: "'owners association' means a private nonprofit entity that is under contract with a city to administer or implement improvements, maintenance, and activities specified in the management district plan." (See Section 36612 of Streets & Highways Code.)

On behalf of not only our nonprofit property owner's association, but all the organizations that manage BIDs not only in Los Angeles, but throughout the state, we would ask that the bill be amended to restrict its application only to public (governmental) agencies.

Sincerely,



Kerry Morrison
Executive Director

SENATE JUDICIARY COMMITTEE
Senator Hannah-Beth Jackson, Chair
2017-2018 Regular Session

AB 1479 (Bonta)
Version: July 3, 2017
Hearing Date: July 11, 2017
Fiscal: Yes
Urgency: No
MS

SUBJECT

Public records: custodian of records: civil penalties

DESCRIPTION

This bill would require public agencies designate a person or office to act as the agency's custodian of records who would be responsible for responding to any request made pursuant to the California Public Records Act (CPRA) and any inquiry from the public about a decision by the agency to deny a request for records. This bill would provide that the designation of a custodian of records does not impose a duty upon a requester to direct the request to a designated custodian, nor does it prevent a person or office that is not the designated custodian from disclosing information pursuant to this chapter.

Moreover, this bill would provide that a court may assess a civil penalty against the agency in an amount not less than \$1,000, nor more than \$5,000, if the court finds by a preponderance of the evidence that the agency as improperly responded to a CPRA request, as provided.

BACKGROUND

"Access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state." (Gov. Code Sec. 6250.) The CPRA provides that public records are subject to disclosure and must be made available to the public unless that type of record is exempt from disclosure. (Gov. Code Sec. 6254.) California's policy when it comes to the CPRA is strongly in favor of the disclosure of public records. (*San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.* (2006) 139 Cal.App.4th 1356, 1408.)

However, even with this preference for access, "the public's right to disclosure of public records is not absolute." (*Id.*, internal citations omitted.) Though the CPRA gives every person the right to inspect and obtain copies of all state and local government documents not exempt from disclosure (Gov. Code Sec. 6253), the CPRA includes two exceptions to the general policy of disclosure of public records. The first exception is

found in Government Code Section 6254, which explicitly lists those types of documents that are exempt from disclosure. The CPRA includes 29 general categories of records that are expressly exempt from public disclosure. These categories are based on the character of the information in the records. The second exception is the "catchall" exception found in Government Code Section 6255. This Section provides that the agency may withhold any record by demonstrating that an express exemption applies or that the public interest served by withholding the records clearly outweighs the public interest served in disclosure. When utilizing the "catchall" exemption, the court conducts a balancing test to determine when a record must be disclosed based upon the facts of that particular case. (*San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School District* (2006) 139 Cal.App.4th 1356, 1408; Gov. Code Sec. 6255.)

This bill would require public agencies designate a person or office to act as the agency's custodian of records who is responsible for responding to any request made pursuant to the California Public Records Act (CPRA) and any inquiry from the public about a decision by the agency to deny a request for records. This bill would provide that the designation of a custodian of records does not impose a duty upon a requester to direct the request to a designated custodian, nor does it prevent a person or office that is not the designated custodian from disclosing information pursuant to this chapter. Additionally, the bill would provide that a court may assess a civil penalty against an agency in an amount not less than \$1,000 nor more than \$5,000 per an action, to be awarded to the requester, if the court finds by a preponderance of the evidence that the agency:

- failed to respond to a request for records as required pursuant to the CPRA;
- improperly withheld a public record from a member of the public that was clearly subject to public disclosure;
- unreasonably delayed providing the contents of a record subject to disclosure in whole or in part;
- improperly assessed a fee upon a requester that exceeded the direct cost of duplication, without substantial justification; or
- otherwise did not act in good faith to comply with the CPRA.

CHANGES TO EXISTING LAW

Existing law, the California Constitution, provides that "the people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny..." (Cal. Const., art. I, Sec. 3.)

Existing law, the California Public Records Act (CPRA), governs the disclosure of information collected and maintained by public agencies. (Gov. Code Sec. 6250 et seq.) Generally, all public records are accessible to the public upon request, unless the record requested is exempt from public disclosure. There are 30 general categories of documents or information that are exempt from disclosure, essentially due to the

character of the information, and unless it is shown that the public's interest in disclosure outweighs the public's interest in non-disclosure of the information, the exempt information may be withheld by the public agency with custody of the information. (Gov. Code Sec. 6254.)

Existing law provides that an agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of the CPRA, or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. (Gov. Code Sec. 6255(a).)

Existing law provides that a response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing. (Gov. Code Sec. 6255(b).)

Existing law defines state agency, for the purposes of the CPRA, to include every state officer, department, division, bureau, board, and commission or other state body or agency except for the Legislature and the Judiciary. (Gov. Code Sec. 6252.)

Existing law provides that public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as provided. (Gov. Code Sec. 6253(a).)

Existing law provides that each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so. (Gov. Code Sec. 6253(b).)

Existing law provides that each agency shall determine within 10 days from the receipt of the CPRA request, whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the agency's determinations and reasons therefore. In unusual circumstances, the time limit may be extended by written notice by the head of the agency or his or her designee, but notice shall specify a date that would result in an extension not for more than 14 days. (Gov. Code Section 6253(c).)

Existing law provides that the public agency shall do all of the following to the extent reasonable under the circumstances:

- assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;
- describe the information technology and physical location in which the records exist; and
- provide suggestions for overcoming any practical basis for denying access to the records or information sought. (Gov. Code Sec. 6253.1(a).)

Existing law provides that some state agencies shall establish written guidelines for the accessibility of public records and shall post these written guidelines in a conspicuous public place at the offices of these agencies, and provide a copy of the guidelines upon request and free of charge. (Gov. Code Sec. 6253.4.)

Existing law allows any person to institute proceedings for injunctive relief, declarative relief, or a writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or receive a copy of any public record or class of public records under the CPRA. (Gov. Code Sec. 6258.)

Existing law provides for whenever it is made to appear by verified petition to the superior court of the county where the public records are situated, that specified public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose them or show cause why he or she should not have to disclose them. (Gov. Code Sec. 6259(a).)

Existing law requires the court to order the public official to make the record public if the court finds that the public official's decision to refuse disclosure is not justified under Section 6245 or 6255. If the court finds the public official was justified in refusing to make the record public, he or she shall return the item to the public official without disclosing its content and issue an order supporting the decision to refuse disclosure. (Gov. Code Sec. 6259(b).)

Existing law allows review of a court's decision directing disclosure of records or supporting the public official's refusal to disclose. The decision of the court is not viewed as a final judgment or order appealable within the meaning of Section 904.1 of the Code of Civil procedure, but rather is considered to be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ. A stay of an order or judgment may be granted if the petitioning party demonstrates it will otherwise sustain irreparable damage and probable success on the merits. In order to obtain this review, a party shall file a petition within 20 days of service of a written notice of entry of the order. (Gov. Code Sec. 6259(c).)

Existing law provides that the court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to the CPRA. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. (Gov. Code Sec. 6259(d).)

Existing law provides that if the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency. (Gov. Code Sec. 6259(d).)

This bill would provide that each agency shall designate a person or office to act as the agency's custodian of records who is responsible for responding to any requests made

pursuant to the CPRA and any inquiry from the public about a decision by the agency to deny a request for records.

This bill would provide that the designation of a custodian of records does not impose a duty upon a requester to direct the request to a designated custodian, nor does it prevent a person or office that is not the designated custodian from disclosing information pursuant to this chapter.

This bill would provide that the court may assess a civil penalty against an agency in an amount not less than \$1,000 nor more than \$5,000 per action, if the court finds by a preponderance of the evidence that the agency:

- failed to respond to a request for records as required pursuant to the CPRA;
- improperly withheld a public record from a member of the public that was clearly subject to public disclosure;
- unreasonably delayed providing the contents of a record subject to disclosure in whole or in part;
- improperly assessed a fee upon a requester that exceeded the direct cost of duplication, without substantial justification; or
- otherwise did not act in good faith to comply with the CPRA.

This bill would provide that the civil penalty assessed against the agency shall be awarded to the requester, if awarded at all.

This bill would provide that the court shall not assess a civil penalty pursuant to this paragraph if the public record was not subject to public disclosure pursuant to the California Public Records Act or decisional law.

This bill would make other technical and conforming changes.

COMMENT

1. Stated need for this bill

According to the Author:

AB 1479 will bring Californians closer to their local and state government by creating greater transparency and responsiveness. When the Legislature enacted the California Public Records Act, it declared that access to information concerning the conduct of people's business is a fundamental right. However, there are various delays in responding to public records requests and at times exorbitant fees charged for producing such records. This stifles the public's ability to access public records. In order to address and prevent the issue of agencies inappropriately withholding public records, this bill would require public agencies to designate a person or office to act as the agency's custodian of records who will respond to a request and inquiry from the public about a

decision by the agency to deny a request for records. This bill would also authorize a court to assess a civil penalty against an agency if it finds that an agency improperly withheld a public record that was clearly subject to public disclosure, unreasonably delayed in providing the contents of a record, assessed an unauthorized fee upon a requester, or otherwise did not act in good faith to comply with these provisions. This bill will hold government accountable and strengthen public access laws.

2. CPRA request process

Under existing law and practices, an individual may typically request access to public records from any state agency during the course of their normal business hours. (Gov. Code Sec. 6253.) The CPRA defines a "public record" as a "writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." (Gov. Code Sec. 6252.) Additionally, the CPRA defines state agency, for the purposes of the CPRA, to include every state officer, department, division, bureau, board, and commission or other state body or agency, except for the Legislature and the Judiciary. (Gov. Code Sec. 6252.)

The CPRA allows 10 days for an agency to respond to a request to inspect. Within 10 days from the request, the agency is to determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency. Upon making this determination, the agency shall promptly notify the individual making the request of their determination and the reasons therefor. In unusual circumstances, the 10 day time limit may be extended through written notice for not more than 14 days. (Gov. Code Sec. 6253.)

Despite the time limits currently provided for under existing law, delayed response times are arguably a common complaint. Writing in support, Oakland's Privacy Commission states that the average response time to their requests is 60 weeks, while they, at times, receive no response. Currently, the ACLU of Southern California is suing the Los Angeles Police Department for a systematic violation of the CPRA in terms of both unanswered CPRA requests and requests for which a response took far longer than current law allows. (See Mather, *ACLU sues LAPD over 'systemic violation' of public records law* (April 25, 2017) <<http://www.latimes.com/local/lanow/la-me-ln-lapd-records-lawsuit-20170425-story.html>> [as of June 20, 2017].) Moreover, the California Newspaper Publishers Association (CNPA) reports frequent delays in response to newspaper's requests for public records. It took newspapers in the Bay Area 16 months to gain access to information regarding sexual assault incidents that occurred at the University of California during the course of the three prior years. Writing about another example, CNPA states:

For example, the *East Bay Times* made CPRA requests for records related to the Ghost Ship fire that occurred in December 2016. In a letter dated December 16,

the City of Oakland promised to release records to the newspaper related to the incident. By February 2, 2017, the City had failed to provide the records responsive to the newspaper's request. The newspaper sent a lawyer's letter to the City, citing its protracted delay in responding to the request: "Given the gravity of this tragedy and the overwhelming public importance of access to records enabling the public to understand why it happened and to start to find solutions to prevent such occurrences in the future, the City's evident desire to control the message and delay the public's right of access during this critical time to the public's discourse on the matter is inexcusable."

The newspaper threatened to sue if the records were not released. As a result, more than 600 pages of records were promptly released.

a. Disclosable request determination

The agency is supposed to inform the individual who made the request that records are disclosable, and an estimated date and time when the records will be made available. (Gov. Code Sec. 6253(c).) Additionally, existing law provides that the agency shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. (Gov. Code Sec. 6253(b).) The statute as originally adopted in 1968 stated "reasonable fee" but through various amendments the statute was changed to state "direct costs of duplication." The Court of Appeals stated in *North County Parents Organization v. Department of Ed.* that "direct cost of duplication" means no more than what it costs to make a copy of the public record. Furthermore, based on a review of legislative history and previous legislative language, the court determined that this cost could not include the efforts made by the agency to respond to the appellant's request, regardless of the time and effort spent researching, preparing documents for review, excising material not subject to disclosure, etc. (*North County Parents Organization v. Department of Ed.* (1994) 23 Cal.App.4th 144, 147-148.)

Due to this current statutory language, duplicating records often results in an individual making physical copies of printed materials and paying the cost per page of copying. The CPRA is not limited to print materials. For example, the ACLU recently succeeded in a suit against the City of Hayward and its police department for a violation of CPRA in which an Alameda County judge ruled that a public agency cannot charge excessive fees for police body worn camera footage. (*National Lawyers Guild v. Hayward BD (Bodycam Records)* (June 24, 2016) <<https://www.aclunc.org/our-work/legal-docket/national-lawyers-guild-v-hayward-pd-bodycam-records>> [as of June 20, 2017].)

b. Nondisclosable request determination

If an agency makes the determination that a requested record is not subject to the CPRA, they must provide the individual with a written determination that the

request is denied, in whole or in part. (Gov. Code Sec. 6255.) Existing law provides any person may institute proceedings for injunctive relief, declarative relief, or a writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or receive a copy of any public record or class of public records under the CPRA. (Gov. Code Sec. 6258.) This typically occurs once a determination denying the request has been provided, but may also occur if the request was never answered.

It is then up to the court to determine whether the records are subject to the CPRA, or whether the agency violated the CPRA in some other way depending on the facts of the case before them. When utilizing the "catchall" exemption provided for in Government Code Section 6255, the court conducts a balancing test to determine when a record must be disclosed based upon the facts of that particular case. (*San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.* (2006) 139 Cal.App.4th 1356.) Should the court find that the decision to refuse disclosure was not justified under Section 6254 or 6255 of the Government Code, existing law provides that the court shall order the agency make the record public. (Gov. Code Sec. 6259(b).) Should the court decide the agency made the correct decision, the records remain private.

3. Making public records more accessible

Existing law provides that a public agency should assist the member of the public make a focused and effective request. Specifically, existing law provides the public agency shall do all of the following to the extent reasonable under the circumstances:

- assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;
- describe the information technology and physical location in which the records exist; and
- provide suggestions for overcoming any practical basis for denying access to the records or information sought. (Gov. Code Sec. 6253.1(a).)

Additionally, existing law provides that every agency may adopt regulations stating the procedures a member of the public should follow when making a CPRA request.

Existing law further states that some state agencies shall establish written guidelines for the accessibility of public records and shall post these written guidelines in a conspicuous public place at the offices of these agencies, and provide a copy of the guidelines upon request and free of charge. The agencies included in this requirement for written, publicly posted guidelines includes, but is not limited to, the: Department of Motor Vehicles; Transportation Agency, Department of Consumer Affairs; Secretary of State, Department of Insurance, San Francisco Bay Conservation and Development Commission; State Department of Social Services; State Department of Public Health; California Coastal Commission; and Los Angeles County Air Pollution Control District. (Gov. Code Sec. 6253.4.)

Despite these provisions, under existing law it is not clear to whom a member of the public should direct their request, unless it is included in the agency's guidelines. Though the CPRA is often utilized by organizations with legal and other specialized knowledge who may understand the process, the goal of the CPRA is to make these records available to a member of the general public. (Cal. Const., art. I, Sec. 3.) This bill would thus require each agency subject to the CPRA to designate a person or office to act as the agency's custodian of records who is responsible for responding to any request made pursuant to this chapter and any inquiry from the public about a decision by the agency to deny a request for the records. The author believes this change will help clarify the process for making a CPRA request with a particular agency and prevent delayed responses to a CPRA request, like those discussed in Comment 2.

In opposition, the League of California Cities, California Municipal Utilities Association, Urban Counties of California, California State Association of Counties, California Special Districts Association, Association of California Healthcare Districts, Beta Healthcare Group, Rural County Representatives of California, and Association of California Water Agencies writes:

Local agencies strive to comply with the strict guidelines inherent with the CPRA, including responding within a 10-day period from the time of the request; this measure runs counter to that intent. AB 1479 would cause further delays in processing requests by creating a bottleneck in the process. AB 1479 requires each public agency to designate a person or office to act as the agency's "custodian of records." The custodian of records is then responsible for responding to all CPRA requests made to the agency. Rather than allowing an agency to determine who is the most appropriate person or office to respond to a request, based on their level of expertise on the subject of a request, AB 1479 takes a one-size-fits-all approach to responding to CPRA requests. For example, when a county receives a question about sheriff's records, should the same office respond to that request that is also responding to requests about health services? Records and information are going to need to be shuffled from office to office, and department to department, unnecessarily to meet the requirements of this bill.

This bill was amended to provide that the designation of a custodian of records does not impose a duty upon a requester to direct the request to a designated custodian, nor does it prevent a person or office that is not the designated custodian from disclosing information pursuant to this chapter. This ensures that a request made by an individual not aware of the custodian of records would still be a valid request. Moreover, it provides clarification to agencies that even employees or offices who are not designated as the custodian of records, may provide information regarding a CPRA request. This provision would ensure that another employee may be able to respond to a request should the agency need someone who is not the designated custodian to respond or provide information regarding a CPRA request. This arguably addresses some of the concerns raised by the League of California Cities, California Municipal Utilities

Association, Urban Counties of California, California State Association of Counties, California Special Districts Association, Association of California Healthcare Districts, Beta Healthcare Group, Rural County Representatives of California, and Association of California Water Agencies.

4. Addition of civil penalties

Under existing law, in addition to the court ordering the record(s) be made public upon a finding in favor of the CPRA request, the court must also award court costs and reasonable attorney fees to the plaintiff when the plaintiff prevails in litigation filed pursuant to the CPRA. Existing law provides that the costs and fees awarded shall be paid by the public agency. Furthermore, if the court finds that the plaintiff's case was clearly frivolous, then the court shall award court costs and reasonable attorney fees to the public agency. (Gov. Code Sec. 6259(d).)

This bill would provide that the court may assess a civil penalty against an agency in an amount not less than \$1,000 nor more than \$5,000 per action, to be awarded to the requester, if the court finds by a preponderance of the evidence that the agency improperly responded to a CPRA request as provided.

In support of this bill, CNPA writes:

The CPRA was modeled after the federal Freedom of Information Act [FOIA]. In adopting the FOIA, Congress was specifically concerned that agencies would delay in responding to requests, and as a result "an agency's failure to comply with the FOIA's time limits is, by itself, a violation of the FOIA." *Gilmore v. U.S. Dep't of Energy*, 33 F.Supp2d 1184, 1187 (N.D.Cal.1998); see also *Long v. IRS*, 693 F.2d 907, 910 (9th Cir. 1982)(concluding that an agency's unreasonable delay in disclosing non-exempt documents violated the FOIA and "courts have a duty to prevent those abuses.")

AB 1479 would adopt FOIA's reasoning into the CPRA and provide a concrete mechanism for a requester enforcing the right of access in court to allege that the agency unreasonably delayed in producing the records.

In support, Oakland Privacy Commission writes:

The average response time to my request is sixty (60) weeks. Some of my requests have received no response at all, demonstrating that CPRA reform is needed and that a stronger disincentive to misconduct than simply awarding attorney's fees is called for. AB 1479 will address this concern.

Opposition to the bill is concerned that the addition of these penalties will only encourage litigation. In opposition, the League of California Cities, California Municipal

Utilities Association, Urban Counties of California, California State Association of Counties, California Special Districts Association, Association of California Healthcare Districts, Beta Healthcare Group, Rural County Representatives of California, and Association of California Water Agencies writes:

The notion of introducing civil penalties into the body of law pertaining to the California Public Records Act (CPRA) is troublesome. Doing so sets a costly and precarious precedent. Such an introduction of civil penalties could lead to abuses of the CPRA and be likened to the well-documented abuses associated with frivolous Americans with Disabilities Act (ADA) lawsuits filed against small businesses. For years small businesses have been targeted with lawsuits and forced to either go to court or quickly settle regardless of corrections to the alleged violations – a failure of the law’s intention. In response, the Legislature has in recent years adopted measures to provide relief enabling good actors in the business community the time afforded to make needed structural changes to comply with the ADA before a lawsuit can be filed.

Similar to unwarranted ADA lawsuits, AB 1479 would provide a financial incentive for serial litigants from across the nation, to extort taxpayer dollars from the state and local public agencies. Tax dollars that would otherwise be used to provide essential services such as healthcare, fire protection, park and road maintenance, and police protection. Public agencies will be forced to settle out of court to avoid expending time and resources for a costly trial, even when the agency is attempting to comply in good faith with the law.

Under the CPRA, the requester can file suit on the day after responsive records are due which could be as early as eleven days after the request if there has been no extension of time. Once a suit is filed, generous attorneys’ fees established in current law may still be awarded under the “catalyst” theory even if the agency discloses the requested records after the litigation has commenced. Paying plaintiff’s attorneys’ fees in a PRA case can cost an agency upwards of \$100,000. An additional \$5,000 fine on top of \$100,000 will not stop bad actors from willful violations – rather AB 1479 will incentivize litigation while punishing good actors trying to comply with the statutory deadlines in CPRA law.

In response to the raised concerns that the addition of a civil penalty would incentivize costly and unnecessary litigation, the Author suggested the following amendments to narrow the provision for civil penalties.

Suggested Amendments:

(3)(A) If a court finds by preponderance of the evidence that an agency agency, knowingly and willfully without substantial justification, failed to respond to the request for records as required pursuant to subdivision (c) of Section 6253, improperly withheld a public record from a member of the public that was

clearly subject to public disclosure, unreasonably delayed providing the contents of a record subject to disclosure in whole or in part, or improperly assessed a fee upon a requester that exceeded the direct cost of duplication, ~~without substantial justification~~, or otherwise did not act in good faith to comply with this chapter, the court may assess a civil penalty against the agency in an amount not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), which shall be awarded to the requester. In an action alleging multiple violations the court may assess a penalty for each violation, however the total amount assessed shall not exceed five thousand dollars (\$5,000).

(B) A court shall not assess a civil penalty pursuant to this paragraph if it determines that the public record was not subject to public disclosure pursuant to the California Public Records Act or decisional law, law, or that the agency reasonably withheld the record based upon an ambiguous or unsettled question of law or a legally recognized privilege.

Additionally, the Author has agreed to the inclusion of a five year sunset date in order to review the impact of this legislation.

Support: American Civil Liberties Union of California (ACLU); California Broadcasters Association (CBA); California Newspaper Publishers Association (CNPA); Californians Aware (CalAware); Coastal Environmental Rights Foundation; Cleveland National Forest Foundation - Save Our Forest and Ranchlands; Climate Action Campaign; ECO San Diego; Electronic Frontier Foundation; First Amendment Coalition (FAC); Inland Oversight Committee; Judge Quentin L. Kopp; Naked Capitalism; Oakland Privacy; San Diegans for Open Government; San Diego Audubon Society; San Diego Coastkeeper; Think Computer Foundation; One Individual

Opposition:

Alpine Village-Sequoia Crest Community Services District; Ambrose Recreation & Park District; Antelope Valley Mosquito and Vector Control District; Aptos/La Selva Fire Protection District; Association of California Healthcare Districts; Association of California Water Agencies; Association of Monterey Bay Area Governments; Bayshore Sanitary District; Beta Healthcare Group; California Association of Clerks and Election Officials; Cameron Estates Community Services District; California Municipal Utilities Association; California Special Districts Association; California State Association of Counties; Cameron Estates Community Services District; Chico Area Recreation and Park District; City Clerks Association of California; City of El Centro; City of Huntington Beach; City of La Quinta; City of Palm Desert; City of Torrance; Costa Mesa Sanitary District; County of Los Angeles; County Sanitation Districts of Los Angeles County; County of Orange; Del Pas Manor Water District; Eden Health District; El Dorado Hills Community Services District; Fallbrook Regional Health District; Garberville Sanitary District; Georgetown Divide Recreation District; Georgetown Fire District; Goleta Sanitary District; Goleta West Sanitary District; Greater Los Angeles

County Vector Control District; Helendale Community Services District; Hornbrook Community Services District; Indian Wells Valley Water District; Ione Memorial District; Kern County Cemetery District No. 1; Kern Mosquito and Vector Control District; Lake Don Pedro Community Services District; League of California Cities; Leucadia Wastewater District; Lincoln Rural County Fire Protection District; McKinleyville Community Services District; Menlo Park Fire Protection District; Midway City Sanitary District; Mojave Desert Air Quality Management District; Monte Rio Recreation and Park District; Monte Rio Recreation and Park District; Monte Vista Water District; Monterey Peninsula Regional Park District; Monterey Regional Waste Management District; Moss Landing Harbor District; North County Fire Protection District; North County Recreation and Park District; Palos Verdes Library District; Paradise Cemetery District; Rancho Simi Recreation and Park District; Rowland Water District; Rural County Representatives of California; Saddle Creek Community Services District; Salton Community Services District; San Bernardino Valley Water Conservation District; Santa Cruz Regional 9-1-1; South Bay Cities Council of Governments; South Tahoe Public Utility District; Special District Risk Management Authority; Squaw Valley Public Service District; Stockton East Water District; Three Valleys Municipal Water District; Tulare Mosquito Abatement District; Urban Counties of California; Vallecitos Water District; Vista Irrigation District; Wasco Recreation and Parks District; West Point Fire Protection District

HISTORY

Source: Author

Related Pending Legislation:

SB 804 (Morrell, 2017) would state the intent of the Legislature to require the exploration and promotion of efficiencies and modernization in the storage of, and public access to, local government documents and recordings. This bill is currently in Senate Rules Committee.

SB 657 (Bates, 2017) would require a court in a reverse public records action to apply the provisions of the CPRA as if the action had been initiated by a person requesting disclosure of a public record. Further, this bill would provide that, if a court orders the public agency to disclose the records in a reverse public records action, the court shall order the person who initiated the action to pay the court costs and reasonable attorney's fees of the requestor. This bill is currently in the Senate Judiciary Committee.

Prior Legislation:

SCA 3 (Leno, Ch. 123, Stats. 2013) placed a measure on the ballot to amend the California Constitution to require local agencies to comply with the CPRA and the Ralph M. Brown Act, and any subsequent amendments that further the constitutional provisions on public access to public agency meetings and records.

SB 1696 (Yee, Ch. 62, Stats. 2008) prohibited a state or local agency from allowing another party to control the disclosure of information that is otherwise subject to disclosure under the CPRA. Additionally, this bill specified that regardless of any contract term to the contrary, a contract for the purpose of conducting a review, audit, or report between a private entity and a state or local agency, including the University of California, is subject to the same disclosure requirements and exceptions as other public records under the CPRA.

Prior Vote:

Assembly Floor (Ayes 71, Noes 1)

Assembly Appropriations Committee (Ayes 16, Noes 0)

Assembly Judiciary Committee (Ayes 11, Noes 0)



Amendments Coming to Public Records Legislation

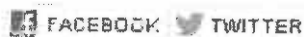
Last Week, Assemblymember Rob Bonta agreed to amend his Assembly Bill 1479 to address CSDA's concerns. Prior to the amendments, AB 1479 would have established new and costly civil penalties to be assessed on local agencies for violations of the California Public Records Act (CPRA), above and beyond plaintiffs' attorneys' fees established in current law. However, due to the low burden of proof required to win a civil suit under the bill, even agencies that were not in violation of the CPRA could find themselves victims of serial litigation. As previously written, AB 1479 provided a financial incentive for serial litigants from across the nation to extort taxpayer dollars from State and local public agencies.

On Wednesday, June 28, CSDA issued a call to action from its membership to oppose AB 1479. Thanks in part to the dozens of opposition letters submitted by special districts regarding the bill, Assemblymember Bonta has agreed to amend AB 1479 in the Senate Judiciary Committee. As proposed to be amended, the burden of proof to win a civil lawsuit will be much higher, eliminating the probability of serial litigation. The bill now focuses solely on bad acting public agencies that "knowingly and willfully" violate the CPRA. Additionally, the provisions of AB 1479 will sunset in five years if new legislation isn't introduced to extend the sunset. The agreed upon amendments can be found on the bottom of page 11 in the Senate Judiciary Committee analysis. Once the AB 1479 has officially been amended, CSDA anticipates moving to a neutral position.

In meeting with Assemblymember Bonta's office, it was made clear that the volume of letters of opposition had a significant impact on our ability to achieve the necessary amendments. Thank you to all the districts that sent in opposition letters and helped make *Districts Stronger Together*.

If you have any questions about AB 1479, or want to find out how you can assist CSDA with future legislative efforts, please contact CSDA legislative representative, Dillon Gibbons, at dillong@csda.net.

California Special Districts Association | 1112 I Street | Suite 200 | Sacramento, CA 95814 | 877.924.CSDA (2732)



A Proud California Special Districts Alliance Partner

Leroy Beavers

From: Devin [REDACTED]
Sent: Wednesday, July 19, 2017 2:27 PM
To: Cory Palka
Subject: Old Hollywood Locals Night - Aug 8

Hello Captain Palka,

I know Angela Babcock has been in contact with some of the LAPD officers about our upcoming Old Hollywood Locals Night, scheduled for Tuesday, August 8, from 6-8 p.m. here in Old Hollywood. Here's more info:

<http://onlyinhollywood.org/localsnight/>

Yesterday, right after we had a planning meeting for it, Kerry and I saw the LAPD mounted unit on Hollywood Blvd., just outside our office – you may have seen the photo I took of Kerry with them which she tweeted. I was wondering if it would be possible to have the mounted unit make an appearance at Old Hollywood Locals Night? People just love seeing them, taking photos with them, and it really gives a great image for LAPD and Hollywood. I appreciate your consideration. Thanks!

DEVIN [REDACTED]
Director of Communications & Social Media

[REDACTED]

Leroy Beavers

From: Matthew [REDACTED]
Sent: Tuesday, July 18, 2017 10:33 AM
To: Cory Palka
Cc: [REDACTED]
Subject: RE: Link to Hollywood data sheet
Attachments: 2017 Greater Los Angeles Homeless Count - Data Summary - Council District 13.pdf

There sure is – see attached.

Matthew

From: Cory Palka [mailto:25060@lapd.online]
Sent: Tuesday, July 18, 2017 10:31 AM
To: Matthew [REDACTED]
Cc: [REDACTED]
Subject: Re: Link to Hollywood data sheet

Matt

This is great stuff. Thank you so much. Is there a 2017 CD13 document? I love the 2016 CD13 document..
Cory

Cory Palka
Commanding Officer
Los Angeles Police Department
Hollywood Division
Follow On Twitter: @LAPD2014

On Jul 18, 2017, at 10:01 AM, Matthew Severson <Matthew@hollywoodbid.org> wrote:

Captain Palka,

I've attached the 2016 LAHSA homeless counts by census tract – the Hollywood tracts are highlighted in yellow. I've also attached the 2016 counts for Council District 13 in case its helpful.

Best regards,

Matthew

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To: Captain Cory Palka <25060@lapd.lacity.org>; [REDACTED]
Subject: Fwd: Link to Hollywood data sheet

Cory - attaching the 2017 data for hollywood census tracts. Matthew - can u peruse the LAHSA website to see if you can find a similar report for 2016 to make comparison. Captain needs for COMPSTAT tomorrow

Thanks!!

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<CD_13.pdf>



2017 Greater Los Angeles Homeless Count - Data Summary

Council District 13

Population	Sheltered	Unsheltered	Total	Prevalence of Homeless Pop. (%)	Percent Change 2016 - 2017
All Persons					
All Persons	911	2,371	3,282	100%	+8%
Household Composition					
Individuals (Those not in family units)	595	2,335	2,930	89%	+12%
Adults (Over 24)	416	1,914	2,330	71%	+9%
Transition Age Youth (18-24)	179	421	600	18%	+28%
Chronically Homeless	35	1,106	1,141	35%	+32%
Veterans	134	239	373	11%	+125%
Unaccompanied Minors (Under 18)	19	12	31	1%	+48%
Family Members (Those in family units)	297	24	321	10%	-21%
Adult Family Members (Over 24 Head of Household)	199	18	217	7%	-24%
Young Family Members (18-24 Head of Household)	98	6	104	3%	-11%
Children in Families (Under 18)	165	14	179	5%	-14%
Chronically Homeless	0	5	5	0.2%	-86%
Veterans	1	1	2	0.1%	+100%
Veterans					
All Veterans	135	240	375	11%	+125%
Chronically Homeless Veterans	12	81	93	3%	+133%
Gender					
Male	544	1,732	2,276	69%	+10%
Female	346	531	877	27%	-0%
Transgender	15	99	114	3%	+30%
Does not identify as male, female, or transgender	2	2	4	0.1%	N/A ¹
Race/Ethnicity					
American Indian/ Alaska Native	8	16	24	1%	-79%
Asian	16	50	66	2%	-19%
Black/African American	402	792	1,194	36%	+12%
Hispanic/ Latino	268	598	866	26%	+30%
Native Hawaiian/ Other Pacific Islander	2	2	4	0.1%	-60%
White	177	889	1,066	32%	+14%
Multi-Racial/Other	40	49	89	3%	-47%
Age					
Under 18	184	25	209	6%	-9%
18 - 24	228	422	650	20%	+22%
25 - 54	385	1,366	1,751	53%	-3%
55 - 61	78	440	518	16%	+54%
62 and Over	44	114	158	5%	+28%
Chronically Homeless					
Individuals (Those not in family units)	35	1,106	1,141	35%	+32%
Family Members (Those in family units)	0	5	5	0.2%	-86%
Total Chronically Homeless Persons	35	1,111	1,146	35%	+27%

Health and Disability					
Health/Disability Indicator ²	Sheltered	Unsheltered	Total	Prevalence in Over 18 Homeless Pop. (%)	Percent Change 2016 - 2017
Substance Use Disorder	167	690	857	28%	+30%
Brain Injury	189	377	566	18%	+97%
HIV/AIDS	58	206	264	9%	+156%
Serious Mental Illness	73	993	1,066	35%	+5%
Developmental Disability	59	105	164	5%	-15%
Physical Disability	43	477	520	17%	-2%

Domestic/Intimate Partner Violence					
Domestic/Intimate Partner Violence	Sheltered	Unsheltered	Total	18 Homeless Pop. (%)	Percent Change 2016 - 2017
Domestic/Intimate Partner Violence Experience	147	1,380	1,527	50%	+133%

Notes:

1. No data available to compare from 2016
2. Health/Disability indicators are not mutually exclusive (a person may report more than one). Numbers will not add up to 100%.

Prepared by Los Angeles Homeless Services Authority (May 2017)

All figures were adjusted to ensure that all populations, sheltered, and unsheltered persons from all Council Districts add up to the City total.

Data from 2017 Greater Los Angeles Point-In-Time Count conducted in January, 2017. Visit <http://www.lahsa.org/homeless-count/> to view and download data.

Leroy Beavers

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Sent: Tuesday, July 18, 2017 10:31 AM
To: Matthew [REDACTED]
Cc: [REDACTED]
Subject: Re: Link to Hollywood data sheet

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Updated September 2nd, 2016

Greater Los Angeles Homeless Count						
Council District 13		2015	% Total	2016	% Total	Change
Grand Total		2,270		3,036		+766
Unsheltered		1,460	64%	2,187	72%	+727
Sheltered		810	36%	849	28%	+39
Individuals		1,824	80%	2,611	86%	+787
Family Members		414	18%	404	13%	-10
Children in Families (included Above)		214	9%	209	7%	-5
Unaccompanied Minors		32	1%	21	1%	-11
Chronically Homeless Individuals		690	30%	864	28%	+174
Chronically Homeless Family Members		58	3%	36	1%	-22
Veterans		206	9%	167	6%	-39
Female Veterans (Included Above)		45	2%	2	0.1%	-43
Mental Illness		651	29%	1,015	33%	+364
Chronic Substance Abuse		491	22%	660	22%	+169
Persons with HIV/AIDS		130	6%	103	3%	-27
Domestic Violence Experience		511	23%	655	22%	+144
Physical Disability		399	18%	529	17%	+130
Male		1,459	64%	2,070	68%	+611
Female		763	34%	878	29%	+115
Transgender		48	2%	88	3%	+40
Hispanic / Latino		705	31%	664	22%	-41
White		588	26%	935	31%	+347
Black / African-American		776	34%	1,064	35%	+288
Asian		33	1%	81	3%	+48
American Indian / Alaskan Native		44	2%	113	4%	+69
Native Hawaiian / Other Pacific Islander		2	0.1%	10	0.3%	+8
Multi-Racial / Other		122	5%	169	6%	+47
Age: <18		246	11%	230	8%	-16
Age: 18 - 24		379	17%	534	18%	+155
Age: 25 - 54		1,236	54%	1,813	60%	+577
Age: 55 - 61		277	12%	336	11%	+59
Age: 62+		132	6%	123	4%	-9

Note: % Total is based on Grand Total of respondents (2015 or 2016) for other categories. Change & % Change reflect change from 2015 to 2016.

Council District 13		2015	% Total	2016	% Total	Change	% Change
Sheltered	Chronically Homeless Individuals	53	7%	58	7%	+5	+9%
	Chronically Homeless Family Units	0	0%	0	0%	+0	N/A
	Chronically Homeless Family Members	0	0%	0	0%	+0	N/A
	Veterans	83	10%	91	11%	+8	+10%
	Female Veterans (included Above)	4	0.5%	2	0.2%	-2	-50%
	Mental Illness	230	28%	153	18%	-77	-33%
	Chronic Substance Abuse	98	12%	44	5%	-54	-55%
	Persons with HIV/AIDS	46	6%	70	8%	+24	+52%
	Domestic Violence Experience	132	16%	137	16%	+5	+4%
Unsheltered	Chronically Homeless Individuals	637	44%	806	37%	+169	+27%
	Chronically Homeless Family Units	16	1%	18	1%	+2	+13%
	Chronically Homeless Family Members	58	4%	36	2%	-22	-38%
	Veterans	123	8.4%	76	3%	-47	-38%
	Female Veterans (included Above)	41	3%	0	0%	-41	-100%
	Mental Illness	421	29%	862	39%	+441	+105%
	Chronic Substance Abuse	393	27%	616	28%	+223	+57%
	Persons with HIV/AIDS	84	6%	33	2%	-51	-61%
	Domestic Violence Experience	379	26%	518	24%	+139	+37%

Note: % Total is based on Grand Total of respondents (2015 or 2016) for other categories. Change & % Change reflect change from 2015 to 2016.

Leroy Beavers

From: Kerry [REDACTED]
Sent: Tuesday, July 18, 2017 9:46 AM
To: Cory Palka; Matthew [REDACTED]
Subject: Fwd: Link to Hollywood data sheet

Cory - attaching the 2017 data for hollywood census tracts. Matthew - can u peruse the LAHSA website to see if you can find a similar report for 2016 to make comparison. Captain needs for COMPSTAT tomorrow

Thanks!!
K

Sent from my iPhone

Begin forwarded message:

From: Jonathan [REDACTED] >
Date: July 18, 2017 at 9:14:08 AM PDT
To: [REDACTED]
Subject: LINK to Hollywood data sheet

<https://www.lahsa.org/documents?id=1463-2017-greater-los-angeles-homeless-count-data-summary-hollywood.pdf>

Sent from my iPhone so please excuse any typos

Redaction Log

Reason	Page (# of occurrences)	Description
no reason	1 (5)	
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	3 (2)	
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	43 (4)	
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